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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 19th September 2007

No.10782-1i/1(B)-50/2003/LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the award dated the 1st June 2007 in I.D. Case No. 65/2003 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s. Konark Cylinder and Containers Private Limited, Mancheswar Industrial Estate, Bhubaneswar and its workman Shri Chaturbhuja Dash was referred for adjudication is hereby published as in the schedule below:—

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 65 OF 2003

The 1st June 2007

Present :

Shri S.K.Mohapatra, O.S.J.S. (Jr. Br.),
Presiding Officer,
Labour Court,
Bhubaneswar.

Between :

The Management of
M/s. Konark Cylinder and Containers
Private Limited,
Mancheswar Industrial Estate,
Bhubaneswar.

.. First-party—Management

And
Its workman
Shri Chaturbhuja Dash

.. Second-party—Workman

Appearances :

NONE

.. For First-Party —Management

Shri C. Dash

..Second-Party—Workman himself

AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the Management of M/s. Konark Cylinder and Containers Private Limited, Mancheswar Industrial Estate, Bhubaneswar and its workman Shri Chaturbhuj Dash under Notification No. 1057/LE., dated the 31st January 2003 vide Memo No. 10335(5)/LE., dated the 29th October 2003 for adjudication by this Court.

2. The terms of reference by the State Government is as follows:—

“Whether the action of the Management of M/s. Konark Cylinder and Containers Private Limited, Mancheswar Industrial Estate, Bhubaneswar in refusing employment to Shri Chaturbhuj Dash, Security Guard with effect from 20th August 2001 is legal/or justified ? If not, what relief Shri Dash is entitled to?”

3. Shorn of all unnecessary details, the case of the workman is as follows:—

The workman was working as a Security Guard under the Management namely M/s. Konark Cylinder and Containers Private Limited, Mancheswar Industrial Estate, Bhubaneswar (hereinafter referred to as the Management) with effect from 11th June 1996. During tenure of his service, the workman was discharging his duty to the satisfaction of the Management but inspite of that the Management retrenched the workman from service with effect from 20th August 2001 by way of refusal of employment without following the mandatory provision of Section 25-F of the Industrial Disputes Act, 1947 (hereinafter referred to as the I.D. Act). There was no allegation whatsoever against the workman and no charge has been framed against him. The Management discharged the workman from service in a casual and illegal manner. On all these averments the workman has prayed for relief from this Court.

4. The Management has been set *ex parte* vide order dated the 5th January 2007.

5. The Workman has examined himself as W.W.1. In his evidence the workman has deposed that he was working under the Management as a Security Guard with effect from 11th June 1996 and has proved Ext.1 which is the Xerox copy of the letter under which he was appointed by the Management. Ext.2 is the Xerox copy of the letter dated the 1st September 2000 under which the workman was confirmed in the post of Security Guard with effect from 1st April 2000 on a monthly salary of Rs. 1220/- and house rent allowance of Rs. 195/-. Ext.3 is the Xerox copy of the E.S.I. card and Ext.4 is same as Ext.3. Ext.5 is the Xerox copy of the E.P.F. Accounts Slip for the year 2000-01. In his

evidence the workman has categorically stated that he had worked for 240 days during 12 calendar months preceding to the date of termination from his service. Further evidence of W.W.1 is that the Management terminated his service without issuing any notice to him and without giving any benefit to him under Section 25-F of the I.D. Act.

6. The unchallenged evidence of the workman W.W.1 read with the documents proved by him clearly shows that the second party was a workman under the Management and that he was in continuous service within the meaning of Section 25-B of the I.D. Act. Apparently the Management concern is engaged in manufacturing of cylinders and containers for industrial use with the help of workman hired for the purpose and therefore, the Management organization is an industry within the meaning of Section 2(j) of the I.D. Act. Since the workman was in continuous service and had rendered more than 240 days of work during 12 calendar months preceding to the date of termination from his service, the retrenchment of the workman without adhering the provision under Section 25-F of the I.D. Act renders the retrenchment of the workman was illegal and unjustified. Consequently the workman is entitled to the relief of reinstatement in service. As regards back wages, it is seen that the period of service rendered by the workman is only just about five years. From the date of termination apparently the workman had not rendered any service to the Management and therefore, in the facts and circumstances of the case there is no order as to payment of any back wages.

7. Hence the reference is answered as follows:—

- (i) The action of the Management namely M/s. Konark Cylinder and Containers Private Limited, Mancheswar Industrial Estate, Bhubaneswar in refusing employment to the workman namely Shri Chaturbhuj Dash, Security Guard with effect from 20th August 2001 is illegal and unjustified.
- (ii) The workman is entitled to the relief of reinstatement in service without any back wages.

Dictated and corrected by me

S.K. Mohapatra
Dt. 01-06-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

S.K. Mohapatra
Dt. 01-06-2007
Presiding Officer,
Labour Court,
Bhubaneswar.

By order of the Governor

N.C.RAY

Under-Secretary to Government